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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/171,049	10/12/1998	EBRAHIM REZAI	JA138	7592

27752 7590 05/29/2003

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EXAMINER

PRATT, CHRISTOPHER C

ART UNIT PAPER NUMBER

1771

DATE MAILED: 05/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/171,049

Applicant(s)

REZAI ET AL.

Examiner

Christopher C Pratt

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 39-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 39-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendments and accompanying remarks filed 4/9/03 have been entered and carefully considered. Applicant's amendment is not found to patentably distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-19 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al (5849405) in view of Goldman et al (5669894) and Anjur et al (5645542), as set forth in the previous two actions.

Applicant argues that the combination set forth above fails to teach the limitation that a majority of individual absorbent gelling particles are directly joined to an adjacent absorbent gelling particle, as added by amendment E. Applicant argues that said combination only teaches that the glue microfibers would be used in a separate layer between the absorbent gelling particles and a substrate web. Applicant's argument relies on Goldman's teaching to utilize glue microfibers in a separate layer. This

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argument is not persuasive because it does not accurately characterize the references used in the instant rejection.

Wang teaches that glues and binders are mixed together with absorbent gelling particles (col. 13, lines 27-33). As is well known in the art, glues and binders can take a myriad of forms. Wang is silent with respect to the form and structure of the glue and binder. Therefore, the skilled artisan must turn to the prior art to practice the invention of Wang.

Like Wang, Goldman is also concerned with the creation of a diaper comprising absorbent gelling particles. Goldman teaches a specific structure and form of a glue or binder to be used in conjunction with absorbent gelling particles. Goldman teaches that glue microfibers provide "good wet integrity...in the absorbent member having the high concentration of hydrogel-forming absorbent polymer (col. 29, lines 43-45)." Therefore, it would have been obvious to utilize glue microfibers as the glue or binder of Wang because Goldman specifically teaches that they provide good wet integrity.

Despite applicant's argument, Goldman specifically teaches that microfibers can be used in the same layer as the absorbent gelling particles (col. 29, line 45). Goldman also teaches that they can be used in "other components of the absorbent article," but this does not negate the fact that they are specifically taught to be used in conjunction with the absorbent gelling particles. Moreover, this aspect of Goldman is not critical because Wang specifically teaches the glue or binder to be used in conjunction with the gelling particles.

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Applicant argues that the combination fails to teach the majority of the particle joined to each other by the glue. Applicant finds support for this limitation as an inherent result of the method used to create the absorbent article. This method teaches mixing the glue and particles together, as opposed to keeping the glue confined to a separate layer. Wang describes the glue as a "mixture" of gelling particles and glue (col. 13, lines 29-32). Wang also teaches that the components of the mixture are not readily physically separable (col. 13, lines 32-36). Therefore, Wang's mixture of glue and particles would also inherently join the majority of the particles to each other.

Applicant argues that there is no motivation to combine the references. However, as set forth above, Wang lacks sufficient specificity and Goldman, not only compensates, but teaches that microfibers provide good wet strength.

Applicant argues that instant invention requires the particles to be fixed to the substrate. As previously set forth, Wang teaches that absorbent material to be "attached" to a substrate web (col. 16, lines 40-44).

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.


If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Christopher C. Pratt  
May 23, 2003



CHERYL A. JUSKA  
PRIMARY EXAMINER